No. 449
10/3/97

ACT No. VI OF 1897.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th March 1897.)

An Act to amend the Negotiable Instruments Act, 1881.

XXVI of 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Negotiable Instruments Act Amendment Act, 1897; and

(*2*) It shall come into force at once.

Amendment of section 72, Act XXVI of 1881.

2. To section 72 of the said Act the following words shall be prefixed, namely, "Subject to the provisions of section 84".

Substitution of new section for section 84, Act XXVI of 1881.

3. For section 84 of the said Act the following section shall be substituted, namely:—

When cheque not duly presented and drawer damaged thereby.

"84. (*1*) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

(*2*) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The

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(*3*) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him."

Illustrations.

(*a*) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(*b*) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

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